

### **REMARKS**

Claims 13-17 are pending in the instant application. Claims 13-17 stand provisionally rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 11-15 of copending Application No. 09/712,563. Claims 13-14 stand rejected under 35 U.S.C. §102(e) as being anticipated by United States Patent No. 6,358,195 to Green et al. Claims 15-17 stand provisionally rejected under 35 U.S.C. §103(a) as being unpatentable over Green et al. in view of United States Patent No. 6,530,875 to Taylor et al. Claim 13 has been amended. Claim 17 has been amended to read as a method claim. Applicants submit that none of the amendments constitute new matter in contravention of the requirements of 35 U.S.C. §132. Reconsideration is respectfully requested.

Claims 13-17 stand provisionally rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 11-15 of copending Application No. 09/712,563. This rejection is respectfully traversed.

The present invention claims a loader device for brachytherapy seeds and spacers. The loader accepts a pre-loaded cartridge of radioactive seeds and provides an opening for receiving spacers. The seeds and spacers are transported through distinct passageways to a channel segment which leads to an outlet of the loader body.

Claims 11-15 of copending Application No. 09/712,563 are directed to a loader for a brachytherapy seeds and spacers. However, unlike the present invention, claims 11-15 do not specify a spacer-transporting path distinct from the seed-transporting path, an elongate channel segment, and a dispensing outlet, wherein the elongate channel segment extends in fluid communication between both the seed-transporting path and the spacer-transporting

path at one end and the dispensing outlet at the opposed end. Therefore, Applicants respectfully submit that there is different subject matter between claims 11-15 of copending Application No. 09/712,563 and the present invention. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 13-14 stand rejected under 35 U.S.C. §102(e) as being anticipated by United States Patent No. 6,358,195 to Green et al. This rejection is respectfully traversed.

Greene discloses a brachytherapy loader having a single passageway for both the seeds and spacers.

Applicants respectfully submit that Green fails to disclose, teach, or suggest the distinct passageways for the seeds and spacers as claimed by the present invention. As a result, Applicants respectfully submit that the present invention is patentably distinct over Green. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 15-17 stand provisionally rejected under 35 U.S.C. §103(a) as being unpatentable over Green et al. in view of United States Patent No. 6,530,875 to Taylor et al. This rejection is respectfully traversed.

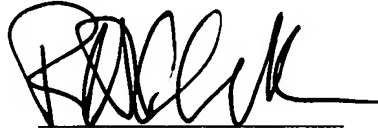
Taylor merely provides details on bioabsorbable seeds and spacers and is silent with respect to a loading apparatus. Taylor does nothing to correct the deficiencies of the loader of Green so as to render the present invention obvious. Therefore, Applicants respectfully submit that the present invention is patentably distinct thereover. Reconsideration and withdrawal of the rejection are respectfully requested.

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Reply to Office action of Sept. 22, 2004

In view of the amendments and remarks hereinabove, Applicants respectfully submit that the instant application, including claims 13-17, is in condition for allowance. Favorable action thereon is respectfully requested.

Any questions with respect to the foregoing may be directed to Applicants' undersigned counsel at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Chisholm', written over a horizontal line.

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